Florida v. Jardines, --- U.S. --- (2013)
Decided March 26, 2013

FACTS: In 2006, Det. Pedraja (Miami-Dade PD) received a tip that marijuana was being grown at Jardines' house. About a month later, the PD and the DEA did a joint surveillance, in which Det. Pedraja surveilled the home for about 15 minutes. He saw no vehicles or activity at the house; the blinds were drawn. He and Det. Bartelt approached the house, along with Bartelt's "drug-sniffing dog." The dog was on a lead. When they came to the front porch, the dog, "apparently sensed one of the odors he had been trained to detect, and began energetically exploring the area for the strongest point source of that odor." The dog was "tracking back and forth," which the detective later described as "bracketing." Eventually, the dog sat at the base of the front door, identifying that as the odor's strongest point. Using that information, Det. Pedraja received a warrant for the residence. When it was executed later that day, they found Jardines and marijuana plants, for which he was charged.

At trial, Jardines moved for suppression, arguing that the dog sniff at his porch was an unreasonable search. The trial court granted the suppression. The initial appellate court reversed that decision, but the Florida Supreme Court quashed the Court of Appeal decision, approving the trial court's decision to suppress. The Government appealed and the U.S. Supreme Court granted certiorari.

ISSUE: May a drug dog be used to seek evidence within the curtilage?

HOLDING: No

DISCUSSION: The Court noted that "officers were gathering information in an area belonging to Jardines and immediately surrounding his house – in the curtilage of the house." They "gathered that information by physically entering and occupying the area to engage in conduct not explicitly or implicitly permitted by the homeowner." The Court noted that the concept that the curtilage is protected has "ancient and durable roots" with Blackstone[1] and that the curtilage is "intimately linked to the home, both physically and psychologically," where "privacy expectations are most heightened.[2]

The Court noted that an"officer's leave to gather information is sharply circumscribed when he steps off those thoroughfares [the public way] and enters the Fourth Amendment's protected areas." When, for example, the Court has permitted visual observation of the curtilage from the air, the observation was done in a "physically nonintrusive manner." The Court noted that in Boyd v. U.S.[3] it reiterated that the general rule is that "our law holds the property of every man so sacred, that no man can set his foot upon his neighbor's close[4] without his leave." The Court agreed that it was undisputed that "the detectives had all four of their feet and all four of their companion's

[1] 4 W. Blackstone, Commentaries on the Laws of England 223 (1769).
[2] California v. Ciraolo, 476 U.S. 207 (1986).
[3] 116 U.S. 616 (1886).
[4] Property, especially that which is "enclosed" in some way.

firmly planted on the constitutionally protected extension of Jardines' home." The only question was whether they had permission to do so, and of course, they did not.

The Court had recognized that the "knocker on the front door is treated as an invitation to the home by solicitors, hawkers and peddlers of all kinds."[5] The "implicit license typically permits the visitor to approach the home by the front path, knock promptly, wait briefly to be received, and then (absent invitation to linger longer) leave." The Court agreed that "complying with the terms of that traditional invitation does not require fine-grained legal knowledge; it is generally managed without incident by the Nation's Girl Scouts and trick-or-treaters." As such, a "police officer not armed with a warrant may approach a home and knock, precisely because that is 'no more than any private citizen may do.'"[6] But, the Court continued, "introducing a trained police dog to explore the area around the home in hopes of discovering incriminating evidence is something else." A knocker does not invite one to "engage in canine forensic investigation." The Court emphasized: "To find a visitor knocking on the door is routine (even if sometimes unwelcome); to spot that same visitor exploring the front path with a metal detector, or marching his bloodhound into the garden before saying hello and asking permission, would inspire most of us to – well, call the police."

The question for the Court do determine was "whether the officer's conduct was an objectively reasonable search," which further depended upon whether they had an "implied license to enter the porch, which in turn depend[ed] upon the purpose for which they entered." Their behavior (in bringing the dog) "objectively reveal[ed] a purpose to conduct a search, which is not what anyone would think he had license to do."

The Court agreed that in other cases, it had upheld the use of drug-sniffing dogs. In this case, however, the "officers learned what they learned only by physically intruding on Jardines' property to gather evidence," much like in the situation in U.S. v. Jones.[7] The "Fourth Amendment's property-rights baseline" "keeps easy cases easy." The Court ruled that the use of "trained police dogs to investigate a home and its immediate surrounding is a 'search' within the meaning of the Fourth Amendment." The Court affirmed the decision of the Supreme Court of Florida in suppressing the evidence.

Full Text of Opinion: http://www.supremecourt.gov/opinions/12pdf/11-564_5426.pdf

[5] Breard v. Alexandria, 341 U.S. 622 (1951)
[6] Kentucky v. King, 563 U.S. – (2011).
[7] U.S. v. Jones, 565 U.S. – (2012).